

REMARKS

Claims 29-34, 36-43, 45-51, 53-59, 61-68, 70-78, 80-82, 84-86, and 90-101 are pending in this application.

Response to Restriction Requirement:

The Examiner has required restriction under 35 U.S.C. § 121 to one of the following Groups:

Group I: Claims 29-43 [*sic*], 45-51, 80-82, 90, and 92-101, drawn to a method for treating or preventing autoimmune disease in a patient comprising the steps of depleting T cells in the patient, and reactivating the thymus of the patient, classified in class 514, subclasses 2, 800; and class 424, subclasses 93.1, 85.2.

Group II: Claims 53-59, 61-68, 70-78, 84-86, 90, 93-94, and 101, drawn to a method for treating an allergy in a patient comprising the steps of ablating T cells in the patients, and reactivating the thymus of the patient, classified in class 514, subclasses 2, 800; and class 424, subclasses 93.1, 85.2.

Group III: Claim 91, drawn to a method for increasing virus-specific peripheral T cell responsiveness of a patient with an at least partially atrophied thymus comprising the steps recited in claim 91, classified at least in class 424, subclass 93.1.

To be fully responsive to the Restriction Requirement, Applicant provisionally elects *Group I, claims 29-34, 36-43, 45-51, 80-82, 90, and 92-101*, with traverse.

Applicants traverse the requirement for Restriction for the following reasons.

According to MPEP § 803, there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (A) The inventions must be independent or distinct as claimed; and
- (B) There would be a serious burden on the examiner if restriction is not required.

Applicants respectfully aver that a search and examination of all the claims of the present application would not pose an undue burden on the Examiner. This is because in the instant case there is overlap in the search of the three Groups identified by the Examiner. First,

Applicants note that claims of both Groups I and II recite the same steps. In fact, Groups I is said to be classified in class 514, subclasses 2, 800; and class 424, subclasses 93.1, 85.2, which is exactly the same classification as that provided for Group II. Furthermore, Group III is classified in in class 424, subclass 93.1, which falls within the classification of Groups I and II. No undue burden for including all claims in the examination on the merits should thus exist. According to MPEP § 803, “[i]f the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.”

In light of the foregoing, Applicant respectfully requests that the claims of Groups I, II and III be examined together. If the Examiner is unwilling to accept this regrouping, Applicant respectfully requests that the Examiner at least examine the claims of Groups I and II together.

Species Restriction:

(a) The Examiner further required that if Applicant elects the invention of Group I, that he elect a single species from:

1. surgical castration, and
2. chemical castration or administration of a pharmaceutical.

Applicant elects *species 2*, with traverse. The claims that read on the elected species include claims 29-34, 36-43, 45, 47, 48-51, 80-82, 90, and 92-101. Applicant traverses this requirement because examination of both species together does not appear to constitute an undue burden on the Patent Office. Accordingly, Applicant respectfully requests that this species election requirement be withdrawn.

(b) The Examiner further required that if Applicant elects species 2, he should elect a single species of pharmaceutical from:

- a. LHRH agonists,
- b. LHRH antagonists,
- c. anti-LHRH vaccines,

- d. anti-androgens,
- e. anti-estrogens,
- f. SERMs,
- g. SARMs,
- h. SPRMs,
- i. ERDs,
- j. aromatase inhibitors,
- k. anti-progestogens,
- l. Dioxalan derivatives, and
- m. a specific combination of species a-l.

Applicant elects *species a (i.e., LHRH agonists)*, with traverse. The claims that read on the elected species include claims 29-34, 36-43, 45, 47-50, 80-82, 90, and 92-100. Applicant traverses because according to MPEP § 803.02, “[i]f the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner *must* examine all claims on the merits, even though they are directed to independent and distinct inventions. In such a case, the examiner will not follow the procedure described below and will not require restriction” (emphasis added). In the instant case, Applicant respectfully avers that the members of the Markush group are sufficiently few in number so as to not constitute a serious burden on the Patent Office. Accordingly, Applicant respectfully requests that this requirement for election be withdrawn. If the Examiner is not minded to withdraw this species election requirement, Applicant respectfully requests that he consider both LHRH agonists and LHRH antagonists. Applicants note that these agonists and antagonists are usually structurally and chemically related, both commonly being analogs of the LHRH decapeptide.

(c) Additionally, the Examiner required that if Applicant elected the species of LHRH agonists, Applicant should elect a single species from the LHRH agonists recited in claim 50.

Applicant elects *Leuprolide*, with traverse. The claims that read on the elected species include claims 29-34, 36-43, 45, 47-50, 80-82, 90, and 92-100. Applicant traverses because the members of the Markush group are sufficiently few in number so as to not constitute a serious burden on the Patent Office. Accordingly, Applicants respectfully request that this requirement for election be withdrawn.

(d) The Examiner further required election of a species of administered cells to a patient from:

- i. stem cells;
- ii. progenitor cells,
- iii. dendritic cells, or
- iv. specific combination of species i-iii.

Applicant elects *stem cells*, with traverse. The claims that read on the elected species include claims 29-33, 36-42, 45-51, 80-82, 90, and 92-101. Applicant traverses because the members of the Markush group are sufficiently few in number so as to not constitute a serious burden on the Patent Office. Accordingly, Applicant respectfully requests that this requirement for election be withdrawn.

(e) The Examiner also required election of a species of cytokine recited in claim 81.

Applicant elects *IL-7*, with traverse. The claims that read on the elected species include claims 29-34, 36-43, 45-51, 80-82, 90, and 92-101. Applicant traverses because the members of the Markush group are sufficiently few in number so as to not constitute a serious burden on the Patent Office. Accordingly, Applicant respectfully requests that this requirement for election be withdrawn.

(f) The Examiner also required election of a species of growth factor recited in claim 82.

Applicant elects *growth hormone*, with traverse. The claims that read on the elected species include claims 29-34, 36-43, 45-51, 80-82, 90, and 92-101. Applicant traverses because the

members of the Markush group are sufficiently few in number so as to not constitute a serious burden on the Patent Office. Accordingly, Applicant respectfully requests that this requirement for election be withdrawn.

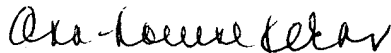
CONCLUSIONS

No fees are believed to be due in connection with this correspondence. However, if any fees are due, please charge the payments due to our Deposit Account No. 08-0219.

If a telephonic interview would advance prosecution of the application, the Examiner is invited to telephone the undersigned at the telephone number given below.

Respectfully submitted,

Dated: June 7, 2006



Ann-Louise Kerner, Ph.D.

Reg. No. 33,523

WILMER CUTLER PICKERING HALE AND DORR LLP

60 State Street
Boston, MA 02109
Tel.: (617) 526-6192
Fax: (617) 526-5000